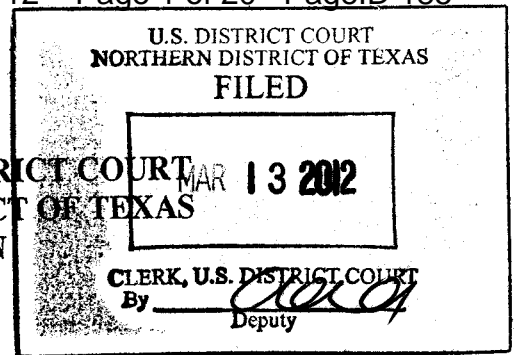


ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**



S & H INDUSTRIES, INC.,

Plaintiff,

v.

**KARL SELANDER, *doing business as*
Atcom Inc. aka Air Tool Corp of America, and
ATCOA, INC., *also known as* Air Tool Corp.
of America,**

Defendants.

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Civil No. 3:11-CV-²988-M-BH

Pretrial Management

**TO: Irma Carrillo Ramirez
United States Magistrate Judge**

Your Honor,

Defending myself in this lawsuit would not be my choice but we have no other recourse. Court procedures and proper responses are not known to me. At 81, with no legal background, poor eyesight and being dyslexic, I am no match for the plaintiff's attorneys.

I did advise the Court that the "ATCOA Inc." does not exist. I have never used that term and have only used ATCOA as an acronym for Air Tool Corp. of America with our dba here in Texas. If this latest "Findings, Conclusions and Recommendation" can be used against us, please explain to me how I go about defending myself in making an objection or appeal.

The "ATCOA Inc." was used mistakenly, by Don Lokke, my nephew, who had provided a free website management to us. In 1994 we filed a corporation in Oregon, using the name, "Air Tool

with that wording/name. In 1994 we filed a corporation in Oregon, using the name, "Air Tool Corp. of America" and again in about 1997 we filed another in Nevada, using the same name. Both were allowed to expire. Under the threat by S&H he was forced to withdraw all of our website and listings as, he too, is not wealthy.

The "First Use in Commerce" "EVER" occurred on August 15, 1963 on the original, "approval for production", blueprint with Shunk Mfg., a subsidiary of Chromalloy Corporation. Shortly after, there was a full page national ad placed in the Automotive Repair and Body News, Oct. 1963 edition. The initialed, original blueprint, by ATCOA Pres. Roy Brodsky, Inventor, Otto Hendrickson and myself, we own the only known original blueprint. All of the owners of the Allen Air Product, Inc. have incorrect "First Use" dates on their trademark filings and transfers. A small copy of that print is attached along with copies of the registered 1974 Copyright by Robert Black. (See attached items.)

The first filing, "Ever", by Allan Air Products, Inc., was for "ATCOA Viking". It was awarded in 1975 and abandoned in March of 1982. This filing included an incorrect "First Use in Commerce" date of 1965. From 1982 to 1993, there was no registration. With the 1993 filing, Allan Air was closed and Mitchell Shenker was selling off the remains of Allan Air. Apparently, the buyer, Dale Elrod, insisted that Shenker file for the name Viking as a condition of the sale. That filing used 1982 as the "First Use in Commerce" date on the application. At this point, Mitchell Shenker should have known of the previous "ATCOA Viking" registration with a 1965 "First Use" date. He knew that we had been using the name for eleven years with his knowledge and blessing. "The New Super Viking" phrase was used from November of 1982, without objection, after he sold us \$10,000 worth of straight-line sanders. We modified and re-named them by attaching our, patented, file creating a new tool design.

There is another item we would draw to your attention, it is, a 1974 Copyright (A29754) issued to a Robert Black the year before the Allan Air trademark registration was awarded. This copyright was for a repair manual titled "Repair manual for Atcoa and Rodac "Viking" type straightline air files. This copyright was given in conjunction with straightline air filer/sanders. How a trademark was permitted with this title being a registered copyright is a mystery to me! Further, it proves our contention that the name "Viking" used with the description of two different brands of straightline sanders makes it clearly a generic name used in that form of reference.

While we do have volumes of documents, advertisements, correspondence and other items, it is not all in an organized or filed order. I am overwhelmed with this undertaking but our income is just Social Security and what little supplemental income, from repairs to air tools and tool sales, has been wiped out with the loss of our website. We have no way to afford an attorney.

Our medical bills are piling up as the only insurance we have is Medicare. We are both heart patients and my wife sustained a brain injury, caused by a fall, which has left her in a wheelchair. I am her only care giver and the stress of all this is taking it's toll on both of us.

We did offer to cease using the "Viking" name for any of our products, as a concession, but they have not accepted this offer.

Our use of that name has been continuous since 1982 with the phrase, "The New Super Viking", Mitchell Shenker, Pres. Of Allan Air Products, having full knowledge. It was Shenker who sold us ten thousand dollars worth of his straight-line air sanders, purchased by our Company, at that time, Commercial Utility Tools,

Inc., a California corporation. In all of these 28 years we have never been challenged over our use with any of the three previous owners, all of whom knew of our activities and use of the name Viking being posted on our website, many editorial sites and directories. All of this is supported with national ads in major trade publications, invoices, trade shows, auto body directories and 24/7 Internet website that grew exponentially over the next 14 + years. With shop calls over 12 years throughout the U.S. there are thousands of witnesses who received brochures and viewed our video.

It is clear to us that S&H failed to perform "Due Diligence" with their purchase of Viking Industries, LLP. A simple search of the Internet in 2006, the year they made this purchase, would have revealed that Air Tool Corp. of America was alive and well. using the name Viking without objections. Their disregard of their duty to protect their IP after four years of ownership, they discover our use from a single complaint by one of their clients. S&H has wrought havoc on us and our nephew, Don Lokke.

Again, Your Honor, I would request an early hearing in an attempt to settle this very damaging action and the cancellation of the, above mentioned, Court action. Further we would respectfully request that this suit be dismissed considering our massive store of evidence, all contrary to the S&H complaints.

Respectfully, *Karl Selander*

Note:

The requirement of the applicant is clear, errors will be considered “fraud” and render the registration void.

Mr. David Ludwig, founder of Allan Air Products, Inc. was assigned all of the rights, title and interest of Air Tool Corp. of America. With this transfer, he was given all of the company records which included the documents we have submitted as proof of “First Use in Commerce” for the name “Viking” used in conjunction with the ATCOA Viking sander. It is obvious that, with his filing, he use the year 1966, “at least”, when he had the ATCOA original records containing first sales invoices of the Viking Sanders, national ads and hundreds of correspondences pertaining to all of the early activities.

With the filing, by Mitchell Shenker, in April 1993, “First Use in Commerce” was dated 1982. Again, being the CEO of Allan Air Products, Inc., he, too, had the original documents transferred to Allan Air in about 1968. In any event, that filing is “Fraud” as described by the Trademark Office.

Summary: Taking into consideration the fact of a copyright given to Robert Black, in 1974, for his “Repair Manual for Atcoa and Rodac “Viking” type straightline sanders.” along with the trademark registration application for “ATCOA Viking” by David Ludwig bearing an incorrect “First Use” date, would vindicate our use of the

name Viking with our promotions. Additionally, our known twenty eight years of using it, universally, without ANY objections with all of the three owners of the "Allan Air" assets. This knowledge was clearly known by Mitchell Shenker and the first buyer, Dale Elrod. When it was transferred to Viking Industries in 2003, our Company listing was place on the front page of "Body Shop Business Directory" in which they were also listed.

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 Journal is a very good example of
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TOM LAL, LEADERSHIP DEVELOPMENT

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15754.
 Repair manual for Avco and Packard
 type crankline engines.
 15755. P. P. Repair manual for
 crankline oil pump. Appl. and
 accurate tool service.
 15756. Black - accurate tool service.
 15757. Black - accurate tool service.

AN ABSTRACT OF THE ALBANY VORTICES.
 Edited by BENJAMIN. 29 p.
 ALBANY: INTRODUCTION & ADDITIONAL NOTES.
 THE COMING AGE PRESS: 32 N. 3d ST.
 1900.

Im Juli der letzten Lebensjahre
eine Krankheit, der er erlag.
Die Frau: Frau von Volkmann
geb. v. Mecklenburg. Sie
war eine sehr tüchtige
Frau, die mit Eifer
für die Sache arbeitete.
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tüchtige Frau, die
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 115. the Badenians in the Far East.
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 125. the Rhinelanders in the Far East.
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 150. the Brandenburgians in the Far East.
 151. The thirty-first is the fact that the
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 155. the Pomeranians in the Far East.
 156. The thirty-second is the fact that the
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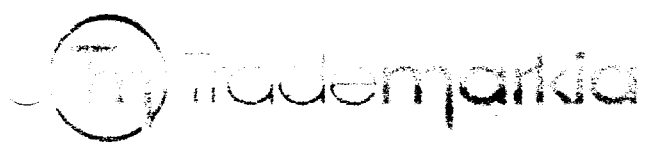
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1. The Commission has received information from the Government of the United Kingdom that the Government of the United Kingdom has decided to withdraw its troops from the Falkland Islands.

[illegible]

2/26/2007

EXHIBIT A



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ATCOA VIKING

By: Allan Air Products, Inc.

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Perfect for these industries

- Machinery Products

"First Use" 1965

Words that describe this logo
[available](#)

This is a brand page for the ATCOA VIKING trademark by Allan Air Products, Inc. in St. Louis, MO, 63133. Write a review about a product or service associated with this ATCOA VIKING trademark. Or, contact the owner Allan Air Products, Inc. of the ATCOA VIKING trademark by filing a request to communicate with the Legal Correspondent for licensing, use, and/or questions related to the ATCOA VIKING trademark.

a U.S. federal trademark registration was filed for ATCOA VIKING by Allan Air Products, Inc., St. Louis, MO 63133. The USPTO has given the ATCOA VIKING trademark serial number of 81023637. The current federal status of this trademark filing is **CANCELLED**. The legal correspondent listed for ATCOA VIKING is [REDACTED] of , , . The ATCOA VIKING trademark is filed in the category of Machinery Products . The description provided to the USPTO for ATCOA VIKING is .

Word Mark: **ATCOA VIKING**

Status/ **CANCELLED - SECTION 8**
Status Date: **3/23/1982**

Serial Number: 81023637

Filing Date: FILING DATE NOT AVAILABLE

Registration Number: 1023637

Registration Date: **10/28/1975**

Goods and Services: NOT AVAILABLE

Mark Description: NOT AVAILABLE

Type Of Mark: TradeMark Application

Published For
Opposition Date: N/A

Last Applicant/Owner: Allco Air Products, Inc.
St. Louis, MO 63133

Why is this correct information displayed?

Mark Drawing Code: Typeset (Words/letter/Number)

Design Search: (NO DATA)

Register Type: Principal

Disclaimer: (NOT AVAILABLE)

Correspondent: ?????????????????????????????????

Classification Information

International Class
Code(s): 007

US Class Code(s):

Primary Class: machines and machine tools; motors and engines (except for land vehicles);
machine coupling and transmission components (except for land vehicles);
agricultural implements other than hand-operated; incubators for eggs.

Class(es) Status: Sec. 8 - Entire Registration

First Use Anywhere: NOT PROVIDED

First Use In
Commerce: NOT PROVIDED

Correspon

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trademark

Current

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Rather than engage in an expensive legal battle over our use of the word "Viking", we have changed the word "Viking" in our description of the NEW ATCOA II Straightline Piston Air Sander which is a registered trademark of Viking Air, Inc. We also own the design copyrights, including our famous logo and words "Viking Dual" since 1963.

The Bible says: "If it be possible, as much as lieth in you, live peaceably with all men!" Rom,



YOU ASKED FOR IT!

A Combination Air-Powered Filer/Sander To Slash Time and Improve Quality!

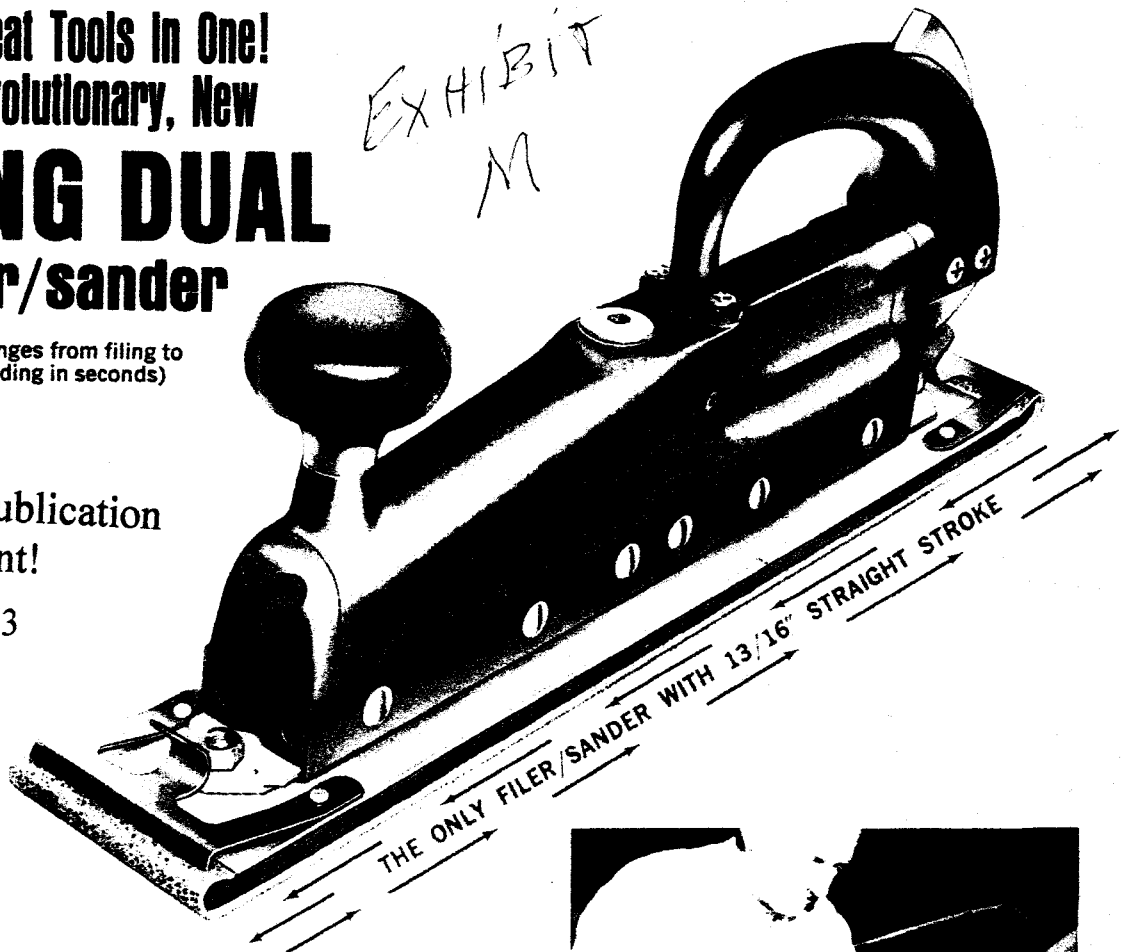
Two Great Tools In One!
The Revolutionary, New

VIKING DUAL Filer/sander

(Changes from filing to
sanding in seconds)

ATCOA'S first publication
advertisement!

October 1963



The VIKING DUAL air tool AUTOMATES HAND FIL-
ING AND SANDING and makes them obsolete forever!
Works any metal or wood surface in a fraction of the time
... works plastic filler at any stage of hardness!

The VIKING DUAL filer/sander will pay for itself
in a very short time by turning out quality work much
faster than ever before, enabling you to accept more jobs.

Find out why the VIKING DUAL has become the hottest
aid in the auto body business. Mark the reader service card
in this magazine or write to the address below for further
information or demonstration. But do it today!



The VIKING DUAL filer/sander has nearly a
full inch stroke in a straight line motion... han-
dles 3 times the work area of conventional tools
... eliminates swirl marks ... rugged enough
for power filing, gentle enough for feathering.



AIR TOOL CORPORATION OF AMERICA

9456 W. Jefferson Boulevard

Culver City, California

Phone 870-0338

AS SEEN IN AUTOMOTIVE SERVICE & BODY NEWS

Int. Cl.: 7

Prior U.S. Cl.: 23

United States Patent and Trademark Office Reg. No. 1,810,473
Registered Dec. 14, 1993

**TRADEMARK
PRINCIPAL REGISTER**

VIKING

ALLAN AIR PRODUCTS, INC. (MISSOURI
CORPORATION)
1264 FERGUSON AVENUE
ST. LOUIS, MO 63133

FIRST USE 3-0-1982; IN COMMERCE
3-0-1982.

OWNER OF U.S. REG. NO. 1,023,637.

FOR: HAND HELD PNEUMATIC FILING,
SANDING AND DRILLING TOOLS, AND RE-
PLACEMENT PARTS THEREFOR, IN CLASS 7
(U.S. CL. 23).

SER. NO. 74-379,406, FILED 4-16-1993.

RICHARD A. STRASER, EXAMINING ATTOR-
NEY

*Why 11 years to
finally file??
"Super Viking"
began in Nov 1982
thru 1999-documented*

Int. Cl.: 7

Prior U.S. Cls.: 13, 19, 21, 23, 31, 34 and 35

United States Patent and Trademark Office

Reg. No. 3,043,482

Registered Jan. 17, 2006

**TRADEMARK
PRINCIPAL REGISTER**



VIKING INDUSTRIES, LLC (ILLINOIS LTD LIAB
CO)
28188 N. BALLARD DRIVE
LAKE FOREST, IL 60045

FIRST USE 3-1-2004; IN COMMERCE 3-1-2004.

OWNER OF U.S. REG. NO. 1,810,473.

FOR: HAND HELD AIR-OPERATED POWER
TOOLS, NAMELY, FILING, SANDING AND DRIL-
LING TOOLS AND REPLACEMENT PARTS THERE-
FOR, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND
35).

SER. NO. 76-586,198, FILED 4-12-2004.

BRIDGETT SMITH, EXAMINING ATTORNEY

*The only change in
this example is the
"art work" around the "V"!*

TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Viking Industries, LLC		05/01/2006	LIMITED LIABILITY COMPANY: ILLINOIS
RECEIVING PARTY DATA			
Name:	S & H Industries, Inc.		
Street Address:	5200 Richmond Road		
City:	Cleveland		
State/Country:	OHIO		
Postal Code:	44146		
Entity Type:	CORPORATION: OHIO		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	1810473	VIKING	
Registration Number:	3043482	VIKING	
CORRESPONDENCE DATA			
Fax Number:	(216)241-1666		
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>			
Phone:	216-861-5582		
Email:	skoening@faysharpe.com		
Correspondent Name:	Sandra M. Koenig - Fay Sharpe LLP		
Address Line 1:	1100 Superior Avenue, Seventh Floor		
Address Line 4:	Cleveland, OHIO 44114-2579		
ATTORNEY DOCKET NUMBER:	SHIN 0 00002		
NAME OF SUBMITTER:	Sandra M. Koenig		
Signature:	/sandramkoenig/		

900109844

TRADEMARK
REEL: 003802 FRAME: 0665

OP \$65.00 1810473



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 74379406

Filing Dt: 04/16/1993

Reg #: 1810473

Reg. Dt: 12/14/1993

Registrant: Allan Air Products, Inc.

Mark: VIKING

Assignment: 1

Reel/Frame: 1556/0078

Received: 02/20/1997

Recorded: 02/12/1997

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ALLAN AIR PRODUCTS, INC.

Exec Dt: 09/01/1998

Entity Type: CORPORATION

Citizenship: MISSOURI

Entity Type: CORPORATION

Citizenship: MISSOURI

Assignee: VIKING AIR TOOLS COMPANY, INC.

1902 SOUTH EAST STREET
INDIANAPOLIS, INDIANA 48245

Correspondent: BLUMENFELD, KAPLAN & SANDWEISS

JEFFREY L. MICHELMAN, ESQ.
168 N. MERAMEC AVE., SUITE 400
ST. LOUIS, MO 63105

Assignment: 2

Reel/Frame: 2891/0859

Received: 12/30/2003

Recorded: 12/03/2003

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: VIKING AIR TOOLS, INC.

Exec Dt: 08/14/2003

Entity Type: CORPORATION

Citizenship: MISSOURI

Entity Type: CORPORATION

Citizenship: ILLINOIS

Assignee: VIKING INDUSTRIES, LLC

878 JEFFERSON DRIVE
LINDENHURST, ILLINOIS 60046

Correspondent: JANSSON, SHUPE & MUNGER, LTD.

JOHN E. MUNGER
245 MAIN STREET - SUITE M
RACINE, WI 53403

Assignment: 3

Reel/Frame: 3802/0665

Received: 06/25/2008

Recorded: 06/25/2008

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: VIKING INDUSTRIES, INC.

Exec Dt: 05/01/2006

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: ILLINOIS

Entity Type: CORPORATION

Citizenship: OHIO

Assignee: S & H INDUSTRIES, INC.

5200 RICHMOND ROAD
CLEVELAND, OHIO 44146

Correspondent: SANDRA M. KOENIG - FAY SHARPE LLP

1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114-2579

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.2
Web interface last modified: July 25, 2011 v.2.2

Search Results as of: 10/26/2011 01:36 PM

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SourceBook 2003

Designed as a reference for the collision repair industry, the BodyShop Business 2003 SourceBook is an alphabetical, cross-referenced listing that highlights companies offering products and services specifically designed for this industry.

Air Filtration Co., Inc.

1858 Hwy 14, P.O. Box 63, Corydon, IA 50060

Tel: (800) 848-5859 Fax: (641) 872-1663

e-mail: info@afcfilters.com

Web site: www.afcfilters.com

Contact: Jeremy Hagan

Laminar III downdraft diffusion media; premium filter for downdraft & crossdraft booths; CT Series for crossdraft booths; 300 Series economy filter for crossdraft booths; fiberglass paint arrestors in rolls & pads; Paint Pockets paint arrestors in rolls & pads; expanded paper arrestors in rolls & pads; prefilter & post-exhaust filters in bags, pads, pleats

AirFlow Technology, Inc.

4810 70th Ave., Kenosha, WI 53144

Tel: (414) 657-2200 Fax: (414) 657-2210

e-mail: filters@enteract.com

Web site: www.airflowtechnology.com

Paint spraybooth filters

Air Tool Corporation of America

2900 W. 14th St., Dallas, TX 75243

Tel: (800) 848-5859 Fax: Same

e-mail: info@atcusa.com

Web site: www.net3000.com/atcusa

Air Tool Corporation

Air Tool Corporation, ATCOA Dust Free System; air compressors; hand files (for Dust Free System); paint booth; paint mixing room; paint-mixing room

Airomax/U.S. Body Products

6120 Spring Creek Dr., Guntersville, AL 35976

Tel: (800) 280-4546 Fax: (800) 280-4546

e-mail: usbp@charter.net

Web site: www.usbodyproducts.com

Contact: Dick Allegrati

Airomax air filtration for entire shop; replacement paint booth filters for all makes & models

Airtech Spray Booths

6-114 Norfinch Dr.

Toronto, ON, Canada M3N 1X1

Tel: (800) 461-0861 Fax: (416) 665-5824

e-mail: airtech@pathcom.com

Contact: George Chadjideris, pres.

Spraybooths; prep stations; centralized vacuum systems; paint-mixing rooms

Akzo Nobel

5555 Spalding Dr., Norcross, GA 30092

Tel: (800) 2SIKKENS Fax: (770) 662-8620

Web site: www.akzonobelcarrefinishes.net

Products: Autoclear III, Colorbuild, Autobase, Autocoat IV; Services: Acoat Selected

Additional services & essential services), technical training

ALC Sandy Jet

5200 Richmond Rd., Cleveland, OH 44146

Tel: (800) 253-9726 Fax: (216) 831-9573

e-mail: shindustries@worldnet.att.net

Web site: www.shindustries.com

Contact: John Myers

Our listing in this SourceBook, a publication of Body Shop Business national magazine. This is one of two "Bibles of the Industry", the other is "ABRN". This book contains the Viking Air Tools listing. How is it that our use of the word Viking was ignored????? How is it that they received a registration of that word if their's is exclusive use in conjunction with inline air sanders?????

Karl Selander
15531 Branchcrest Circle
Dallas, TX 75248



TO: Judge, Irma Carrillo Ramirez
United States District Court
Office of the Clerk
Northern District of Texas
1100 Commerce - Room 1452
Dallas, TX 75242-1495

